IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 12799 of 2004

Between:

Smt. Chundam Chimpiramma, D/o Chundam Chellanna Dora, B. Velamalakota Village, Rampachodavaram Mandal, East Godavari District.

..... PETITIONER

AND

1 The Additional Agent to Government and Project Officer, I.T.D.A, Rampachodavaram, East Godavari District.
2 The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
3 The Mandal Revenue Officer, Rampachodavaram Mandal, Rampachodavaram, East Godavari District.
4 Karam Tammanna Dora, S/o Pedda Bulli Dora, B. Velamalakota Village, Rampachodavaram, East Godavari District.
5 Karam Venkanna Dora, S/o Pedda Bulli Dora, B. Velamalakota Village, Rampachodavaram, East Godavari District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or Direction more particularly one in the nature of writ of mandamus declaring the order of the 2nd respondent in LTRP No. 209/2003 dated 27-1-2004 and the consequential endorsement dated nil in appeal filed by the petitioner as highly illegal, arbitrary, unjust and violative of principles of natural

justice and in violation of the provisions of Reg.1/59 as amended by Reg.1/70 and consequently set aside the same and pass such other appropriate orders.

Counsel for the Petitioner: MR.BADANA.BHASKARA RAO

Counsel for the Respondent No.1 & 2: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.3 : GP for Revenue

The Court at the admission stage made the following :

ORDER:

The petitioner is a tribal. He claims that he is the owner of an extent of 2.95 hectares of land in Survey No.185 of B.Velamalakota Village, Rampachodavaram Mandal, East Godavari District. The Special Deputy Collector, Tribal Welfare, Rampachodavaram, passed an order on 27.01.2004 directing eviction of the respondent therein by name Mutta Manikyalarao and other non-tribals from P.S. land and for restoration of the same to the tribal petitioner. He directed the Mandal Revenue Officer, Rampachodavaram, to implement the order and report compliance. In the schedule of the said order, the land situated in Sy.No.185, which is being claimed by the petitioner is also included. The petitioner is not a party to the said proceedings. The petitioner being aggrieved by the said order filed an appeal before the 1st respondent under Section-3 (3)(a)(b) of the A.P. Scheduled Areas Land Transfer Regulation, 1959 read with Rule-8 of the A.P. Scheduled Areas Land Transfer Rules, 1969, contending that he is the owner of the land situated in Sy.No.185; that he is a tribal; that he has been in possession and enjoyment of the same and requested to set-aside the order of the 2nd respondent in respect of the land belonging to him. The 1st respondent in the said appeal passed an order returning the memorandum of appeal with the following endorsement:-

> "The appellant was not a party in the original L.T.R.P. and the contents of this petition shows that it is a dispute for title between tribal and tribal. Hence you are directed to approach civil Court to decide the title. C.M.A. Appeal cannot decide the title."

The petitioner being aggrieved by the return of the memorandum of appeal by the 1st respondent approached this Court requesting to set-aside the order of the 1st respondent. The 1st respondent ought to have passed an order on merits after considering the representation of the petitioner instead of returning the memorandum of appeal on the ground that it is a dispute for title between tribal and tribal and therefore, the petitioner has to approach a civil Court to get the title decided. The said order is illegal on the face of it. Therefore, the impugned order dated NIL of the 1st respondent returning the memorandum of appeal of the petitioner is set-aside. The petitioner is directed to make a representation to the 2nd respondent with all relevant documents regarding his title and possession of the property of 2.95 hectares in Sy.No.185 and the 2nd respondent shall, on receipt of the representation, adjudicate the matter after conducting proper enquiry and by giving opportunity to the parties concerned including the petitioner within a period of three months from the date of receipt of a copy of this order and if the 2nd respondent comes to a conclusion that the petitioner is entitled for the said property he shall exclude the same from the schedule of the lands covered by the order dated 27.01.2004. Pending disposal of the said representation, the respondents 2 and 3 are directed not to dispossess the petitioner from the said land.

With the above directions, the writ petition is disposed of. No costs.

(DR.G.YETHIRAJULU, J)

23.07.2004

Note:

Furnish operative

portion of the order

by wire at party's cost.

B/o

DR

To

1 The Additional Agent to Government and Project Officer, I.T.D.A, Rampachodavaram, East Godavari District.
2 The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
3 The Mandal Revenue Officer, Rampachodavaram Mandal, Rampachodavaram, East Godavari District.
4 Two CCs to G.P. for Revenue, High Court Buildings, High Court of A.P., Hyderabad. (OUT)

5 Two CD copies.